IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7129 OF 2006

Rahul Dilip Sable ....Petitioner
V/s.
The Union of India & Ors. ....Respondents

WITH

WRIT PETITION NO.7130 OF 2006

Arun S. Sable ....Petitioner
V/s.
The Union of India & Ors. ....Respondents

WITH

WRIT PETITION NO.7131 OF 2006

Sanjay S. Sable ....Petitioner
V/s.
The Union of India & Ors. ....Respondents

WITH

WRIT PETITION NO.7132 OF 2006

Dilip S. Sable ....Petitioner
V/s.
The Union of India & Ors. ....Respondents

WITH

WRIT PETITION NO.7133 OF 2006

Sudhir S. Sable ....Petitioner
V/s.
The Union of India & Ors. ....Respondents

Mr.C.S. Balsara with Mr.Ritesh Kulkarni and Mr.Sudesh Gavhane for the Petitioners.

Mrs.Madhuri Gaikwad for Respondent No.1.

Mrs.M.P. Thakur, AGP for Respondent Nos.2 and 3.

Mr.J. Saluja i/b M/s.M.V. Kini & Co. for Respondent No.4.

CORAM : F.I. REBELLO &
S.J. VAZIFDAR, JJ.
DATED : 20TH FEBRUARY, 2007.

P.C. :

1. Rule. Heard forthwith.

2. On behalf of Respondent No.4, the learned counsel makes a statement that in terms of the order dated 31.1.2007 and time as extended by this Court, they have brought the compensation but that was not accepted by the office as in the meantime the time has expired. Office is directed to accept the compensation. The amounts deposited are as under :-

i). In Writ Petition Nos.7129 of 2006 and 7131 of 2006, the total amount deposited is Rs.9,73,285/- ;

ii). In Writ Petition No.7130 of 2006, the amount deposited is along with in the name of Vijaya Bhikaji Darwadkar Rs.14,76,708/- ;

iii). In Writ Petition No.7132 of

2006, the amount deposited is Rs.88,185/- ;

iv). In Writ Petition No.7133 of 2006, the amount deposited is Rs.1,60,336/- plus further amounts of Rs.2,70,967/- and Rs.6,01,259/- ;

. The total amount comes to Rs.35,81,962/- after deducting the tax. Respondent No.4 has brought today a cheque in the sum of Rs.32,16,602/-. Respondent No.4 to deposit the said amount in the office and the office to receive the said amount.

3. All the Petitioners in whose names the amounts are awarded on applying singly or collectively, as the case may be, for withdrawal of the amount deposited, the same be paid in the names of persons whose names have been set out earlier in terms of the agreement between the parties, if any.

4. The Petitioners had approached this Court, as an order had been passed, that the compensation shall not be released, as the Petitioners herein had refused to give their consent to the arrangement which required them to give up their claim not to approach

the Arbitrator. It is the case of the Petitioners, that the right to seek the remedy is a statutory right and this could not have been denied to them.

. We agree with the contention urged on behalf of the Petitioners. The Petitioners therefore would be entitled apart from the amount deposited in terms of the order, to also apply to the Arbitrator for enhancement of the compensation according to law. It is further made clear, that it will be open to the Petitioners if they are so entitled, to claim interest on the unpaid amounts till the date of the order of deposit, to move their claim before the Arbitrator and in such event the Arbitrator to decide the same.

5. In so far as the amounts deducted towards tax, it will be open for the Petitioners to contend before the Arbitrator that the said amount was not deductible at source and in that event Respondent No.4 would pay to the Petitioners and others entitled to, the amount deducted in terms of the award of the Arbitrator. It will be open for Respondent No.4 if they have deposited the tax deducted with the Competent Authority, to apply for refund of the said amount. If the Arbitrator decides that the amounts could not be deducted towards the TDS, it will be open

for Respondent No.4 after paying the said amounts to the Petitioners and others entitled to claim refund from the Government Authority in which event, the Government Authority to refund the said amount to Respondent No.4.

6. Liberty to the parties to apply to this Court in the event of any further directions are required.

. Rule is made absolute accordingly in all the above Petitions. No order as to costs.

(S.J. VAZIFDAR, J.) (F.I. REBELLO, J.)